

ORIGINAL

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FILED

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CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIABY YMT DEPUTY

6 Attorneys for Defendant
 7 UNITED AIR LINES, INC. (erroneously sued as
 7 UNITED AIR LINES)

8 UNITED STATES DISTRICT COURT
 9 SOUTHERN DISTRICT OF CALIFORNIA

'08 CV 1587 US POR

11 WEIDA HAYNES, an individual,

12 Plaintiff,

13 v.

14 UNITED AIR LINES, a Delaware
 15 corporation; and DOES 1 - 20,
 Inclusive,

16 Defendants.

CASE NO. _____

(San Diego Superior Court Case No. 37-
 2008-00088798-CU-OE-CTL)

**NOTICE OF REMOVAL OF CIVIL
 ACTION TO UNITED STATES
 DISTRICT COURT BY DEFENDANT
 UNITED AIR LINES, INC.**

Complaint: July 31, 2008

18 TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
 19 SOUTHERN DISTRICT OF CALIFORNIA, AND TO PLAINTIFF WEIDA
 20 HAYNES, AND TO HER ATTORNEYS OF RECORD, DOUGLAS E.
 21 GEYMAN, AND THE LAW OFFICE OF DOUGLAS E. GEYMAN:

22 PLEASE TAKE NOTICE that Defendant United Air Lines, Inc. ("United")
 23 (erroneously sued as United Air Lines) hereby removes the above-captioned action
 24 from the Superior Court of the State of California for the County of San Diego to
 25 the United States District Court for the Southern District of California, on the
 26 grounds of federal question jurisdiction, pursuant to 28 U.S.C. §§ 1331 and 1441,
 27 and on the basis of diversity jurisdiction, pursuant to 28 U.S.C. §§ 1332, 1441, and
 28 1446. The grounds for removal are as follows:

-1-

CP

1 1. On or about July 31, 2008, Plaintiff Weida Haynes ("Plaintiff") filed a
 2 Complaint For 1) Employment Discrimination-Disability; 2) Employment
 3 Discrimination-Failure to Accommodate; 3) Intentional Infliction of Emotional
 4 Distress; and 4) Negligent Infliction of Emotional Distress in the Superior Court of
 5 the State of California for the County of San Diego (the "Complaint") entitled,
 6 "Weida Haynes v. United Air Lines, and Does 1 - 20, Inclusive," designated as
 7 Case No. 37-2008-00088798-CU-OE-CTL (the "State Court Action").

8 2. United first received notice of the State Court Action when it was
 9 served with Plaintiff's Complaint on August 1, 2008.

10 3. The following pleadings constitute all the process, pleadings, and
 11 orders in this action to date of which Defendant is aware:

12 (a) A copy of the Complaint is attached as Exhibit A.

13 (b) A copy of the Summons, Civil Case Cover Sheet, Notice of
 14 Case Assignment, Notice to Litigants/ADR Information Package, and Stipulation to
 15 Alternative Dispute Resolution Process, which were also served on Defendant on
 16 August 1, 2008, are attached as Exhibit B.

17 (c) A copy of Defendant's Answer to Plaintiff's Complaint is
 18 attached hereto as Exhibit C.

19 4. This Notice of Removal is timely, because it is being filed within
 20 30 days of United's receipt of the Complaint on August 1, 2008, and within one
 21 (1) year of commencement of this action.

22 5. This Court is the United States District Court for the district within
 23 which the State Court Action is pending.

24 6. This action is a civil action of which this Court has original
 25 jurisdiction under 28 U.S.C. section 1331, and which may be removed to this Court
 26 by Defendant under 28 U.S.C. section 1441(b) in that it alleges claims that arise
 27 under the federal Americans with Disabilities Act (42 U.S.C. § 12101, *et seq.*)
 28 (Ex. A, ¶¶ 11, 12, and 15). *See Weaver v. Florida Power & Light Co.*, 172 F.3d

1 771, 773, fn. 1 (11th Cir. 1999) (holding that “because [plaintiffs] complaint was
 2 based on the federal Americans with Disabilities Act, the lawsuit raised a federal
 3 question and removal pursuant to 28 U.S.C. Section 1441 was therefore proper”).
 4 Further, this Court has supplemental jurisdiction over the remaining state causes of
 5 action under 28 U.S.C. section 1367(a).

6 7. Plaintiff’s Complaint does not specifically request an amount for
 7 damages. However, she does assert claims for lost wages, emotional distress, and
 8 punitive damages. “Where both actual and punitive damages are recoverable under
 9 a complaint each must be considered to the extent claimed in determining
 10 jurisdictional amount.” *Bell v. Preferred Life Assur. Soc. of Montgomery, Ala.*, 320
 11 U.S. 238, 240 (1943); *see also, Simmons v. PCR Technology*, 209 F. Supp. 2d 1029,
 12 1033 (N.D. Cal. 2002) (holding that “the amount in controversy may include
 13 punitive damages when they are recoverable as a matter of law”).

14 8. Plaintiff has alleged two causes of action under the California Fair
 15 Employment and Housing Act (“FEHA”) and Americans with Disabilities Act for
 16 disability discrimination and failure to accommodate. She has also asserted causes
 17 of action for intentional infliction of emotional distress and negligent infliction of
 18 emotional distress, based upon the same actions that underlie her FEHA and ADA
 19 claims. In all these actions, Plaintiff requests the recovery of punitive damages.
 20 (Ex. A, ¶¶ 21, 28, 36 and 43.) Because punitive damages are available under the
 21 FEHA, this Court may consider punitive damages when determining the amount in
 22 controversy. *Simmons*, 209 F. Supp. 2d at 1033. Moreover, as this Court
 23 recognized in *Simmons*, jury verdicts from other similar cases in California “amply
 24 demonstrate the potential for large punitive damage awards in employment
 25 discrimination cases.” *Id.* (referencing other California employment discrimination
 26 cases, where the jury entered verdicts of \$60,000, \$121,000,000, and \$40,000,000
 27 in punitive damages). In this case, should Plaintiff prevail in her FEHA and ADA
 28 claims and recover punitive damages, jury verdicts from other similar lawsuits

1 demonstrate that the punitive damages award would likely exceed \$75,000. Thus,
 2 the \$75,000 jurisdictional limit will be easily met, when considering the potential
 3 punitive damages award, along with Plaintiff's indication she is seeking recovery of
 4 \$150,000 in damages.

5 9. It is also facially apparent that plaintiff's FEHA, ADA, and common
 6 law tort claims exceed \$75,000, based on Plaintiff's claim for damages relating to
 7 her loss of earnings (Ex. A, ¶¶ 18, 26, and 35), mental and physical damages
 8 (Ex. A, ¶¶ 19, 27, 33, and 39), statutory attorneys' fees (Ex. A, ¶ 3 of prayer), and
 9 punitive damages (Ex. A, ¶¶ 21, 28, 36 and 43). *See, Simmons*, 209 F. Supp. 2d at
 10 1035 (denying plaintiff's motion for remand, holding that it was facially apparent
 11 that the employment discrimination claims contained in plaintiff's complaint, which
 12 sought compensatory damages related to lost pay and mental distress, along with
 13 punitive damages and attorneys' fees, exceeded the \$75,000 jurisdictional limit).

14 10. United is presently and was at the time of the commencement of this
 15 suit, a citizen of the state of Delaware as provided in 28 U.S.C. § 1332(c), because
 16 it was and is a corporation duly organized and validly existing under and pursuant
 17 to the laws of the state of Delaware.

18 11. United's principal place of business is in the state of Illinois because
 19 United's executive, operational and administrative offices are located in Elk Grove
 20 Township and Chicago, Illinois, and it employs the largest number of employees in
 21 Illinois. *Breitman v. May Co California*, 37 F.3d 562, 564 (9th Cir. 1994). *See,*
 22 *Tosco Corp. v. Communities for a Better Environment*, 236 F.3d 495, 500 (9th Cir.
 23 2001) (substantial predominance of business found in California, where company
 24 had significantly more employees, manufacturing, retail locations and sales in
 25 California than in any other state.)

26 12. Other courts have previously determined that United's principal place
 27 of business is Illinois. *See, United Air Lines v. Mesa Air Lines*, 8 F.Supp.2d 796,
 28 798 (N.D. Ill. 1998); *United Independent Flight Officers, Inc. v. United Air Lines*,

1 756 F.2d 1262, 1270 (7th Cir. 1985); *United Independent Flight Officers, Inc. v.*
 2 *United Air Lines*, 1983 WL 2082 (N.D. Ill. 1983); *but see Ghaderi v. United*
 3 *Airlines, Inc.*, 136 F.Supp.2d 1041 (N.D. Cal. 2001); *Burgos v. United Airlines,*
 4 *Inc.*, 2002 WL 102607 (N.D. Cal. 2002).

5 13. Therefore, diversity jurisdiction exists pursuant to 28 U.S.C. § 1332(a)
 6 as the amount in controversy exceeds \$75,000 and diversity of citizenship exists
 7 between the sole Defendant in this matter, United Air Lines, Inc. and Plaintiff, since
 8 Plaintiff is a citizen of California and United Air Lines, Inc. is incorporated in
 9 Delaware and has its principal place of business in Illinois.

10 14. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this
 11 Notice of Removal will be given promptly to Plaintiff and, together with a copy of
 12 the Notice of Removal, will be filed with the Clerk of the Superior Court of the
 13 State of California, County of San Diego, in the State Court Action.

14 WHEREFORE, United removes to this Court the above action now pending
 15 in the Superior Court of the State of California, County of San Diego, by timely
 16 filing this Notice of Removal.

17
 18 Dated: August 29, 2008

19 DLA PIPER US LLP

20
 21 By 

22 JOHN E. FITZSIMMONS
 23 AMY E. BECKSTEAD
 24 Attorneys for Defendant
 25 UNITED AIR LINES, INC. (erroneously
 26 sued as UNITED AIR LINES)
 27
 28

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1 DOUGLAS E. GEYMAN (SBN: 159417)
2 Law Office of Douglas E. Geyman
3 750 B Street, Suite 2635
4 San Diego, CA 92101
5 Telephone: (619) 232-3533

F I L E D
Clerk of the Superior Court
JUL 31 2008

6
7
8 Attorney for Plaintiff WEIDA HAYNES

By: L. McALISTER, Deputy

9
10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SAN DIEGO, CENTRAL DIVISION

12 WEIDA HAYNES, an individual	)	CASE NO.: 37-2008-00088798-CU-OE-CTL
13 Plaintiff,	)	Case Classification: General Civil
14 v.	)	<u>COMPLAINT FOR:</u>
15 UNITED AIR LINES, a Delaware	)	1) Employment Discrimination - Disability;
16 corporation; and DOES 1 - 20,	)	2) Employment Discrimination - Failure to
17 Inclusive,	)	Accommodate;
18 Defendants.	)	3) Intentional Infliction of Emotional
	)	Distress; and
	)	4) Negligent Infliction of Emotional
	)	Distress.
	)	JURY TRIAL DEMANDED

19
20 COMES NOW Plaintiff WEIDA HAYNES ("HAYNES" or "Plaintiff"), and for
21 causes of actions against Defendants, and each of them, alleges as follows:

22 I.

23 ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

- 24 1. Plaintiff WEIDA HAYNES is, and at all times herein mentioned was, an
25 individual residing in the County of San Diego.
- 26 2. Defendant UNITED AIR LINES ("UNITED" or "Defendant") is, and at all
27 times herein mentioned was, a Delaware corporation, doing business in the County of San
28 Diego.

COMPLAINT FOR DAMAGES

1 3. Plaintiff is unaware of the true names and capacities of the defendants
2 designated as DOES 1 through 20, inclusive, and therefore sues such defendants by their
3 fictitious names. Plaintiff will seek leave of this Court, if required, to amend this complaint
4 to allege their true names and capacities when the same has been ascertained. Plaintiff is
5 informed and believes, and thereon alleges, that each and every defendant designated herein
6 as a DOE is in some manner liable or responsible for the acts, occurrences and omissions
7 hereinafter set forth, and the damages proximately caused thereby.

8 4. Plaintiff is informed and believes, and thereupon alleges, that in acting, or
9 failing to act, as hereinafter set forth, each and every defendant was acting as the agent,
10 servant, employee, principal, master and employer of each remaining co-defendant, within
11 the course and scope of such agency, servitude and employment, and with the express or
12 implied consent, knowledge and ratification of each such remaining co-defendant.

13 5. On or about July 9, 2007, Plaintiff became employed with UNITED as a
14 Customer Service Representative ("CSR"). Immediately upon employment, Plaintiff
15 participated in and satisfactorily completed a five-week training period.

16 6. On or about November 4, 2007, Plaintiff suffered a back injury which required
17 that she take time off from work. Plaintiff was off work due to her back injury November 19
18 - 26, 2007, and again December 1 - 6, 2007.

19 7. Plaintiff returned to work on or about December 7, 2007 ready and capable to
20 resume her job duties with minimal accommodations.

21 8. On or about December 9, 2007, Barbara Fitzsimmons ("Fitzsimmons"),
22 Plaintiff's supervisor, advised Plaintiff that her employment with UNITED would be
23 terminated effective the next day, December 10, 2007. The reason provided to Plaintiff by
24 Fitzsimmons for the termination was that Plaintiff had not successfully completed the
25 probationary period.

26 9. Plaintiff is informed and believes, and thereon alleges, that the reason for
27 termination of her employment provided by UNITED was pretext.

28 ////

10. Plaintiff alleges that the real reason that UNITED terminated her employment was to be relieved of its legal duty to accommodate her disability.

11. In terminating Plaintiff's employment, UNITED discriminated against Plaintiff based on her disability in violation of federal and state statutes prohibiting such discrimination.

12. Plaintiff has exhausted her administrative requirements by timely filing charges against Defendant with the Equal Employment Opportunity Commission ("EEOC") pursuant to the American with Disabilities Act of 1990 ("ADA"), as codified at 42 USC § 12101, *et seq.*, and pursuant to the Fair Employment and Housing Act ("FEHA") as codified at Cal. Gov. Code § 12940, *et seq.* The EEOC has issued its "Right To Sue Letter" to Plaintiff, who timely files this action. Plaintiff, therefore, respectfully requests relief and judgment against Defendants, and each of them, as set forth below.

II.

FIRST CAUSE OF ACTION

Employment Discrimination - Disability

13. Plaintiff incorporates the allegations of paragraphs 1 through 12, above, as though fully set forth herein.

14. In or about November 2007, Plaintiff suffered a back injury which required her to take time off from work. Shortly after suffering the back injury, UNITED terminated Plaintiff employment.

15. UNITED's termination of Plaintiff's employment due to the disability she suffered as a result of the back injury constitutes employment discrimination in violation of the ADA and FEHA statutes, as set forth herein.

16. Plaintiff is informed and believes and thereon alleges that her disability played a role in Defendants', and each of their, willingness to discriminate against her.

17. Plaintiff's claim of employment discrimination based on disability is supported by the conduct of Defendants, and each of them, as described herein.

////

1 18. As a direct, foreseeable and proximate result of the aforementioned conduct
2 by Defendants, and each of them, Plaintiff has suffered, and continues to suffer, losses in
3 earnings, earning capacity and other benefits of employment, all in an amount yet to be
4 ascertained. Plaintiff will, therefore, seek leave of court to amend this Complaint to allege
5 the exact amount of such damages when the same becomes known to her, or to conform to
6 proof at trial.

19. As a proximate result of Defendant's, and each of their, willful, knowing and intentional discrimination, Plaintiff has suffered, and continues to suffer, humiliation, emotional distress, and mental and physical pain and anguish, all to her damage in an amount according to proof at trial.

11 20. Plaintiff is informed and believes, and thereupon alleges, that the actions of
12 Defendants, and each of them, as hereinabove alleged, were willful, wanton, malicious and
13 oppressive, and done with knowledge that their conduct was unlawful. Notwithstanding such
14 knowledge, Defendants, and each of them, despicably subjected Plaintiff to cruel and unjust
15 hardship in conscious disregard of Plaintiff's rights as hereinabove alleged. Plaintiff is,
16 therefore, entitled to punitive and exemplary damages in an amount sufficient to discourage
17 such future conduct by Defendants, and each of them, and at the Court's discretion.

21. Plaintiff is informed and believes, and thereupon alleges, that Defendant engaged in other actionable conduct not enumerated in this Complaint. Plaintiff will therefore, seek leave of Court to amend this Complaint to allege the specific acts when the same becomes known to her, or to conform to proof thereof at trial.

III.

SECOND CAUSE OF ACTION

Employment Discrimination - Failure to Accommodate

25 22. Plaintiff incorporates by reference paragraphs 1 through 21 of this Complaint
26 as though fully set forth herein.

27 23. At all times herein alleged, Plaintiff was qualified to perform her work duties
28 with reasonable accommodations.

1 24. UNITED failed to adopt available measures that were necessary to
2 accommodate Plaintiff's disability, as alleged herein.

3 25. Plaintiff's claims of failure to accommodate are supported by Defendants',
4 and each of their, conduct as described herein.

5 26. As a direct, foreseeable and proximate result of the aforementioned conduct
6 by Defendants, and each of them, Plaintiff has suffered, and continues to suffer, losses in
7 earnings, earning capacity and other benefits of employment, all in an amount yet to be
8 ascertained. Plaintiff will, therefore, seek leave of court to amend this Complaint to allege
9 the exact amount of such damages when the same becomes known to HER, or to conform to
10 proof at trial.

11 27. As a proximate result of Defendant's, and each of their, willful, knowing and
12 intentional discrimination, Plaintiff has suffered, and continues to suffer, humiliation,
13 emotional distress, and mental and physical pain and anguish, all to her damage, in an
14 amount according to proof at trial.

15 28. Plaintiff is informed and believes, and thereupon alleges, that the actions of
16 Defendants, and each of them, as hereinabove alleged, were willful, wanton, malicious and
17 oppressive, and done with knowledge that their conduct was unlawful. Notwithstanding such
18 knowledge, Defendants, and each of them, despicably subjected Plaintiff to cruel and unjust
19 hardship in conscious disregard of Plaintiff's rights as hereinabove alleged. Plaintiff is,
20 therefore, entitled to punitive and exemplary damages in an amount sufficient to discourage
21 such future conduct by Defendants, and each of them, and at the Court's discretion.

22 29. Plaintiff is informed and believes, and thereupon alleges, that Defendant
23 engaged in other actionable conduct not enumerated in this Complaint. Plaintiff will
24 therefore, seek leave of Court to amend this Complaint to allege the specific acts when the
25 same becomes known to her, or to conform to proof thereof at trial.

26 ///

27 ///

28 ///

IV.

THIRD CAUSE OF ACTION

Intentional Infliction of Emotional Distress

30. Plaintiff incorporate by reference paragraphs 1 through 29 of this Complaint as though fully set forth herein.

31. The conduct of Defendants, and each of them, as set forth herein, was extreme and outrageous to a degree as to be outside the bounds of decency in a civilized society.

32. The conduct of Defendants, and each of them, was done in reckless disregard and with the intention to cause emotional distress in Plaintiff.

33. As a result of Defendants', and each of their, extreme and outrageous conduct, Plaintiff has suffered, and continues to suffer severe emotional distress and mental anguish.

34. The severe emotional distress and mental anguish that Plaintiff has suffered, and continues to suffer, was actually and proximately caused by Defendants', and each of their, extreme and outrageous conduct as set forth herein.

35. As a direct and proximate cause of Defendants', and each of their, actions, Plaintiff has suffered, and will continue to suffer, a loss of earnings and other employment benefits and job opportunities. Plaintiff is thereby entitled to general and special damages in an amount to be proven at trial.

36. The acts of Defendants, and each of them, were done with malice, fraud and oppression, and with conscious disregard for Plaintiff's rights, and with the intent to injure Plaintiff. Defendants', and each of their, conduct was extreme and outrageous to such a degree as to entitle Plaintiff to punitive and exemplary damages in an amount sufficient to discourage such future actions of Defendants and others.

V.

FOURTH CAUSE OF ACTION

Negligent Infliction of Emotional Distress

37. Plaintiff incorporate by reference paragraphs 1 through 37 of this Complaint as though fully set forth herein.

1 38. The conduct of Defendants, and each of them, as set forth herein, was extreme
2 and outrageous to a degree as to be outside the bounds of decency in a civilized society.

3 39. The conduct of Defendants, and each of them, was done in negligent and
4 reckless disregard of the emotional distress caused in Plaintiff.

5 40. As a result of Defendants', and each of their, extreme and outrageous conduct,
6 Plaintiff has suffered, and continues to suffer severe emotional distress and mental anguish.

7 41. The severe emotional distress and mental anguish that Plaintiff has suffered,
8 and continues to suffer, was actually and proximately caused by Defendants', and each of
9 their, extreme and outrageous conduct as set forth herein.

10 42. The acts of Defendants, and each of them, were done with malice, fraud and
11 oppression, and with reckless disregard for Plaintiff's rights.

12 43. Defendants', and each of their, wrongful actions taken against Plaintiff were
13 despicable, oppressive, malicious, deliberate, egregious, and inexcusable to a degree such
14 that Plaintiff is entitled to an award of punitive damages in an amount sufficient to
15 discourage future actions by Defendants and others.

16 WHEREFORE, Plaintiff respectfully requests relief and judgment against
17 Defendants, and each of them, as follows:

- 18 1. For compensatory, special and general damages according to proof at trial;
- 19 2. For punitive damages in an amount sufficient to discourage such future
20 discriminatory actions by Defendants and others, and in the Court's discretion;
- 21 3. For attorneys fees and costs, according to proof at trial; and
- 22 4. For such other and further relief as the Court may deem just and proper.

23 July __, 2008

THE LAW OFFICE OF DOUGLAS E. GEYMAN

24

25

26

27

28

By: _____

Douglas E. Geyman
Attorney for Plaintiff WEIDA HAYNES

1 38. The conduct of Defendants, and each of them, as set forth herein, was extreme
2 and outrageous to a degree as to be outside the bounds of decency in a civilized society.

3 39. The conduct of Defendants, and each of them, was done in negligent and
4 reckless disregard of the emotional distress caused in Plaintiff.

5 40. As a result of Defendants', and each of their, extreme and outrageous conduct,
6 Plaintiff has suffered, and continues to suffer severe emotional distress and mental anguish.

7 41. The severe emotional distress and mental anguish that Plaintiff has suffered,
8 and continues to suffer, was actually and proximately caused by Defendants', and each of
9 their, extreme and outrageous conduct as set forth herein.

10 42. The acts of Defendants, and each of them, were done with malice, fraud and
11 oppression, and with reckless disregard for Plaintiff's rights.

12 43. Defendants', and each of their, wrongful actions taken against Plaintiff were
13 despicable, oppressive, malicious, deliberate, egregious, and inexcusable to a degree such
14 that Plaintiff is entitled to an award of punitive damages in an amount sufficient to
15 discourage future actions by Defendants and others.

16 WHEREFORE, Plaintiff respectfully requests relief and judgment against
17 Defendants, and each of them, as follows:

- 18 1. For compensatory, special and general damages according to proof at trial;
19 2. For punitive damages in an amount sufficient to discourage such future
20 discriminatory actions by Defendants and others, and in the Court's discretion;
21 3. For attorneys fees and costs, according to proof at trial; and
22 4. For such other and further relief as the Court may deem just and proper.

23 July 31, 2008

THE LAW OFFICE OF DOUGLAS E. GEYMAN

24
25 By: 

26 Douglas E. Geyman
27 Attorney for Plaintiff WEIDA HAYNES
28

HDQLD

Pulcario

2008LIT01432

AUG 04 2008

SUM-100

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

UNITED AIRLINES, a Delaware corporation; and DOES 1-20, Inclusive

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
WIEDA HAYNES, an individual

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

F I L E D

Clerk of the Superior Court

JUL 31 2008

Dr. L. McALISTER, Deputy

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):
SUPERIOR COURT OF CALIFORNIA
330 West Broadway

San Diego, CA 92101
Central Division

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Douglas E. Geyman, Esq. (SBN 159417) (619) 232-3533 (619) 232-3593

LAW OFFICE OF DOUGLAS E. GEYMAN
750 B Street, Suite 2635
San Diego, CA 92101

DATE: JUL 31 2008

(Fecha)

Clerk, by

L. McALISTER

(Secretario)

Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): United Air Lines, a Delaware corporation

- under:
- | | |
|--|---|
| <input type="checkbox"/> CCP 416.10 (corporation) | <input type="checkbox"/> CCP 416.60 (minor) |
| <input type="checkbox"/> CCP 416.20 (defunct corporation) | <input type="checkbox"/> CCP 416.70 (conservatee) |
| <input type="checkbox"/> CCP 416.40 (association or partnership) | <input type="checkbox"/> CCP 416.90 (authorized person) |
| <input type="checkbox"/> other (specify): | |

4. ☒ by personal delivery on (date): 8/1/08

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Douglas E. Geyman, Esq. (SBN 159417) LAW OFFICE OF DOUGLAS E. GEYMAN 750 B Street, Suite 2635 San Diego, CA 92101 TELEPHONE NO.: (619) 232-3533 FAX NO.: (619) 232-3593 ATTORNEY FOR (Name): Plaintiff		FOR COURT USE ONLY FILED Clerk of the Superior Court JUL 31 2008 By: L. McALISTER, Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 West Broadway MAILING ADDRESS: CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Central Division		
CASE NAME: HAYNES V UNITED AIRLINES		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	CASE NUMBER: 37-2008-00088798-CU-OE-CTL
Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify):

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: July 31, 2008

Douglas E. Geyman, Esq. (SBN 159417)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO	
STREET ADDRESS: 330 West Broadway	
MAILING ADDRESS: 330 West Broadway	
CITY AND ZIP CODE: San Diego, CA 92101	
BRANCH NAME: Central	
TELEPHONE NUMBER (619) 450-7061	
PLAINTIFF(S) / PETITIONER(S): Weida Haynes	
DEFENDANT(S) / RESPONDENT(S): United Air Lines	
HAYNES VS. UNITED AIR LINES	
NOTICE OF CASE ASSIGNMENT	CASE NUMBER: 37-2008-00088798-CU-OE-CTL

Judge: John S. Meyer

Department: C-61

COMPLAINT/PETITION FILED: 07/31/2008

CASES ASSIGNED TO THE PROBATE DIVISION ARE NOT REQUIRED TO COMPLY WITH THE CIVIL REQUIREMENTS LISTED BELOW

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT).

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil consists of all cases except: Small claims appeals, petitions, and unlawful detainers.

COMPLAINTS: Complaints must be served on all named defendants, and a CERTIFICATE OF SERVICE (SDSC CIV-345) filed within 60 days of filing. This is a mandatory document and may not be substituted by the filing of any other document.

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than a 15 day extension which must be in writing and filed with the Court.)

DEFAULT: If the defendant has not generally appeared and no extension has been granted, the plaintiff must request default within 45 days of the filing of the Certificate of Service.

THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO LITIGATION, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. MEDIATION SERVICES ARE AVAILABLE UNDER THE DISPUTE RESOLUTION PROGRAMS ACT AND OTHER PROVIDERS. SEE ADR INFORMATION PACKET AND STIPULATION.

YOU MAY ALSO BE ORDERED TO PARTICIPATE IN ARBITRATION PURSUANT TO CCP 1141.10 AT THE CASE MANAGEMENT CONFERENCE. THE FEE FOR THESE SERVICES WILL BE PAID BY THE COURT IF ALL PARTIES HAVE APPEARED IN THE CASE AND THE COURT ORDERS THE CASE TO ARBITRATION PURSUANT TO CCP 1141.10. THE CASE MANAGEMENT CONFERENCE WILL BE CANCELLED IF YOU FILE FORM SDSC CIV-359 PRIOR TO THAT HEARING

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

CASE NUMBER: 37-2008-00088798-CU-OE-CTL CASE TITLE: Haynes vs. United Air Lines

NOTICE TO LITIGANTS/ADR INFORMATION PACKAGE

You are required to serve a copy of this Notice to Litigants/ADR Information Package and a copy of the blank Stipulation to Alternative Dispute Resolution Process (received from the Civil Business Office at the time of filing) with a copy of the Summons and Complaint on all defendants in accordance with San Diego Superior Court Rule 2.1.5, Division II and CRC Rule 201.9.

ADR POLICY

It is the policy of the San Diego Superior Court to strongly support the use of Alternative Dispute Resolution ("ADR") in all general civil cases. The court has long recognized the value of early case management intervention and the use of alternative dispute resolution options for amenable and eligible cases. The use of ADR will be discussed at all Case Management Conferences. It is the court's expectation that litigants will utilize some form of ADR – i.e. the court's mediation or arbitration programs or other available private ADR options as a mechanism for case settlement before trial.

ADR OPTIONS

1) CIVIL MEDIATION PROGRAM: The San Diego Superior Court Civil Mediation Program is designed to assist parties with the early resolution of their dispute. All general civil independent calendar cases, including construction defect, complex and eminent domain cases are eligible to participate in the program. Limited civil collection cases are not eligible at this time. San Diego Superior Court Local Rule 2.31, Division II addresses this program specifically. Mediation is a non-binding process in which a trained mediator 1) facilitates communication between disputants, and 2) assists parties in reaching a mutually acceptable resolution of all or part of their dispute. In this process, the mediator carefully explores not only the relevant evidence and law, but also the parties' underlying interests, needs and priorities. The mediator is not the decision-maker and will not resolve the dispute – the parties do. Mediation is a flexible, informal and confidential process that is less stressful than a formalized trial. It can also save time and money, allow for greater client participation and allow for more flexibility in creating a resolution.

Assignment to Mediation, Cost and Timelines: Parties may stipulate to mediation at any time up to the CMC or may stipulate to mediation at the CMC. Mediator fees and expenses are split equally by the parties, unless otherwise agreed. Mediators on the court's approved panel have agreed to the court's payment schedule for county-referred mediation: \$150.00 per hour for each of the first two hours and their individual rate per hour thereafter. Parties may select any mediator, however, the court maintains a panel of court-approved mediators who have satisfied panel requirements and who must adhere to ethical standards. All court-approved mediator fees and other policies are listed in the Mediator Directory at each court location to assist parties with selection. **Discovery:** Parties do not need to conduct full discovery in the case before mediation is considered, utilized or referred. **Attendance at Mediation:** Trial counsel, parties and all persons with full authority to settle the case must personally attend the mediation, unless excused by the court for good cause.

2) JUDICIAL ARBITRATION: Judicial Arbitration is a binding or non-binding process where an arbitrator applies the law to the facts of the case and issues an award. The goal of judicial arbitration is to provide parties with an adjudication that is earlier, faster, less formal and less expensive than trial. The arbitrator's award may either become the judgment in the case if all parties accept or if no trial de novo is requested within the required time. Either party may reject the award and request a trial de novo before the assigned judge if the arbitration was non-binding. If a trial de novo is requested, the trial will usually be scheduled within a year of the filing date.

Assignment to Arbitration, Cost and Timelines: Parties may stipulate to binding or non-binding judicial arbitration or the judge may order the matter to arbitration at the case management conference, held approximately 150 days after filing, if a case is valued at under \$50,000 and is "at issue". The court maintains a panel of approved judicial arbitrators who have practiced law for a minimum of five years and who have a certain amount of trial and/or arbitration experience. In addition, if parties select an arbitrator from the court's panel, the court will pay the arbitrator's fees. Superior Court

3) SETTLEMENT CONFERENCES: The goal of a settlement conference is to assist the parties in their efforts to negotiate a settlement of all or part of the dispute. Parties may, at any time, request a settlement conference before the judge assigned to their case; request another assigned judge or a pro tem to act as settlement officer; or may privately utilize the services of a retired judge. The court may also order a case to a mandatory settlement conference prior to trial before the court's assigned Settlement Conference judge.

4) OTHER VOLUNTARY ADR: Parties may voluntarily stipulate to private ADR options outside the court system including private binding arbitration, private early neutral evaluation or private judging at any time by completing the "Stipulation to Alternative Dispute Resolution Process" which is included in this ADR package. Parties may also utilize mediation services offered by programs that are partially funded by the county's Dispute Resolution Programs Act. These services are available at no cost or on a sliding scale based on need. For a list of approved DRPA providers, please contact the County's DRPA program office at (619) 238-2400.

ADDITIONAL ADR INFORMATION: For more information about the Civil Mediation Program, please contact the Civil Mediation Department at (619) 515-8908. For more information about the Judicial Arbitration Program, please contact the Arbitration Office at (619) 531-3818. For more information about Settlement Conferences, please contact the Independent Calendar department to which your case is assigned. Please note that staff can only discuss ADR options and cannot give legal advice.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 West Broadway MAILING ADDRESS: 330 West Broadway CITY, STATE, & ZIP CODE: San Diego, CA 92101-3827 BRANCH NAME: Central		FOR COURT USE ONLY
PLAINTIFF(S): Weida Haynes		
DEFENDANT(S): United Air Lines		
SHORT TITLE: HAYNES VS. UNITED AIR LINES		
STIPULATION TO ALTERNATIVE DISPUTE RESOLUTION PROCESS (CRC 3.221)		CASE NUMBER: 37-2008-00088798-CU-OE-CTL

Judge: John S. Meyer

Department: C-61

The parties and their attorneys stipulate that the matter is at issue and the claims in this action shall be submitted to the following alternative dispute resolution process. Selection of any of these options will not delay any case management time-lines.

- | | |
|---|---|
| <input type="checkbox"/> Court-Referred Mediation Program | <input type="checkbox"/> Court-Ordered Nonbinding Arbitration |
| <input type="checkbox"/> Private Neutral Evaluation | <input type="checkbox"/> Court-Ordered Binding Arbitration (Stipulated) |
| <input type="checkbox"/> Private Mini-Trial | <input type="checkbox"/> Private Reference to General Referee |
| <input type="checkbox"/> Private Summary Jury Trial | <input type="checkbox"/> Private Reference to Judge |
| <input type="checkbox"/> Private Settlement Conference with Private Neutral | <input type="checkbox"/> Private Binding Arbitration |
| <input type="checkbox"/> Other (specify): _____ | |

It is also stipulated that the following shall serve as arbitrator, mediator or other neutral: (Name) _____

Alternate: (mediation & arbitration only) _____

Date: _____

Date: _____

Name of Plaintiff: _____

Name of Defendant: _____

Signature: _____

Signature: _____

Name of Plaintiff's Attorney: _____

Name of Defendant's Attorney: _____

Signature: _____

Signature: _____

(Attach another sheet if additional names are necessary). It is the duty of the parties to notify the court of any settlement pursuant to California Rules of Court, 3.1385. Upon notification of the settlement the court will place this matter on a 45-day dismissal calendar.

No new parties may be added without leave of court and all un-served, non-appearing or actions by names parties are dismissed.

IT IS SO ORDERED.

Dated: 07/31/2008

JUDGE OF THE SUPERIOR COURT

SDSC CIV-359 (Rev 01-07)

STIPULATION TO USE OF ALTERNATIVE DISPUTE RESOLUTION

Page: 1

FILED
CIVIL BUSINESS OFFICE 17
CENTRAL DIVISION
08 AUG 28 PM 4:30
CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA

1 JOHN E. FITZSIMMONS (Bar No. 182467)
2 AMY E. BECKSTEAD (Bar No. 216422)
3 **DLA PIPER US LLP**
4 401 B Street, Suite 1700
5 San Diego, CA 92101-4297
6 Tel: 619-699-2972
7 Fax: 619-699-2701

8 Attorneys for Defendant
9 UNITED AIR LINES, INC. (erroneously sued as UNITED AIR
10 LINES)

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO, CENTRAL DIVISION

WEIDA HAYNES, an individual,
Plaintiff,
v.
UNITED AIR LINES, a Delaware
corporation; and DOES 1 - 20, Inclusive,
Defendants.

CASE NO. 37-2008-00088798-CU-OE-CTL

**ANSWER TO PLAINTIFF'S UNVERIFIED
COMPLAINT**

Judge: Hon. John S. Meyer
Dept: C-61

Complaint: July 31, 2008

Defendant United Air Lines, Inc. (erroneously sued as United Air Lines) ("Defendant")
answers Plaintiff Weida Haynes' ("Plaintiff") unverified Complaint as follows:

Pursuant to California Code of Civil Procedure section 431.30, Defendant denies
generally each and every allegation of Plaintiff's unverified Complaint.

SEPARATE AFFIRMATIVE DEFENSES

For a separate and further answer to Plaintiff's unverified Complaint, Defendant alleges
on information and belief the following affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

(To All Causes of Action)

Defendant is informed and believes, and on that basis alleges, that Plaintiff has failed,
refused, or neglected to mitigate or avoid the damages complained of in her Complaint. By

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1 reason of the foregoing, Plaintiff is barred in whole or in part from recovering monetary damages
2 from Defendant.

3 **SECOND AFFIRMATIVE DEFENSE**

4 (To All Causes of Action)

5 Plaintiff's causes of action are barred, in whole or in part, by the applicable statute of
6 limitations, including, but not limited to, California Code of Civil Procedure sections 335.1 and
7 338 and California Government Code section 12960.

8 **THIRD AFFIRMATIVE DEFENSE**

9 (To All Causes of Action)

10 The Complaint, and each cause of action, fails to state facts sufficient to constitute a cause
11 of action.

12 **FOURTH AFFIRMATIVE DEFENSE**

13 (To All Causes of Action)

14 By reason of Plaintiff's conduct, she is barred under the doctrine of unclean hands from
15 all forms of relief sought in her Complaint.

16 **FIFTH AFFIRMATIVE DEFENSE**

17 (To the First and Second Causes of Action)

18 Plaintiff has failed to exhaust the administrative remedies as required by the California
19 Fair Employment and Housing Act, and California Government Code section 12900 *et seq.*, and
20 the Americans with Disabilities Act and, therefore, is barred from maintaining her First and
21 Second Causes of Action against Defendant.

22 **SIXTH AFFIRMATIVE DEFENSE**

23 (To All Causes of Action)

24 Plaintiff has engaged in conduct and activities with respect to the subject matter of this
25 dispute by reason of which Plaintiff is estopped to assert any claims or demands against Defendant.

26 **SEVENTH AFFIRMATIVE DEFENSE**

27 (To All Causes of Action)

28 Plaintiff has failed to state facts sufficient to support an award of punitive damages.

EIGHTH AFFIRMATIVE DEFENSE

(To All Causes of Action)

Although Defendant denies it has committed or has responsibility for any act that could support the recovery of punitive damages in this action, if, and to the extent that any such act is found, recovery of punitive damages against Defendant is unconstitutional under various provisions of the United States Constitution, including, but not limited to, the due process clause of the Fifth Amendment, and section 1 of the Fourteenth Amendment. In addition, the recovery of punitive damages against Defendant is unconstitutional under various provisions of the California Constitution, including, but not limited to, the excessive fines clause of section 17 of Article I and the due process clause of section 1 of Article I.

NINTH AFFIRMATIVE DEFENSE

(To All Causes of Action)

Plaintiff's Complaint, and each and every cause of action contained within, fails due to the doctrine of laches.

TENTH AFFIRMATIVE DEFENSE

(To All Causes of Action)

Plaintiff's Complaint, and each cause of action therein, is barred, in whole or in part, by the exclusive remedy of the California Workers' Compensation Act. Cal. Lab. Code § 3600 *et seq.*

ELEVENTH AFFIRMATIVE DEFENSE

(To all Causes of Action)

Plaintiff's Complaint and each cause of action pled therein are barred to the extent that Defendant has discovered facts, or may later discover facts, which, if known to Defendant prior to Plaintiff's termination, would have created additional grounds or bases for a decision to discharge Plaintiff. As a matter of law, the after-acquired evidence doctrine bars Plaintiff's recovery for such claims and/or cuts off damages for such claims.

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TWELFTH AFFIRMATIVE DEFENSE

(To All Causes of Action)

Plaintiff's Complaint and each cause of action pled therein are barred because any alleged actions or decisions by Defendant taken with respect to Plaintiff's employment were legitimate and non-discriminatory. In other words, any actions or decisions of Defendant taken with respect to Plaintiff were made regardless of Plaintiff's alleged protected status under the FEHA and ADA, or any other statute. Any alleged actions taken against Plaintiff would have been taken notwithstanding Plaintiff's alleged protected status or alleged protected action.

THIRTEENTH AFFIRMATIVE DEFENSE

(To All Causes of Action)

Plaintiff's Complaint, and each cause of action contained within, are barred to the extent that Plaintiff seeks punitive damages because, at all relevant times, Defendant had a written policy that specifically forbids discriminatory practices and these policies were implemented in good faith. Plaintiff was aware of these policies, but failed to take advantage of them, even though Plaintiff knew such policies were intended to prevent and/or remedy any unlawful discrimination. Plaintiff failed to exhaust the internal remedies available to her to address and resolve her pending claims.

FOURTEENTH AFFIRMATIVE DEFENSE

(To All Causes of Action)

Plaintiff's Complaint and each purported cause of action alleged therein are barred on the grounds that they are preempted by the Railway Labor Act (the "RLA"), 45 U.S.C. § 151, *et seq.*

FIFTEENTH AFFIRMATIVE DEFENSE

(To the Second Cause of Action)

Upon information and belief, Plaintiff failed to notify and/or request a reasonable accommodation from Defendant and therefore is barred from maintaining her Second Cause of Action.

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SIXTEENTH AFFIRMATIVE DEFENSE

(To the Second Cause of Action)

Upon information and belief, Plaintiff failed to engage in the interactive process with Defendant, and therefore is barred from maintaining her Second Cause of Action.

SEVENTEENTH AFFIRMATIVE DEFENSE

(To the Second Cause of Action)

Upon information and belief, to the extent Plaintiff is deemed to have requested a reasonable accommodation, Plaintiff's requested accommodation would have created an undue hardship to the operation of Defendant's business.

EIGHTEENTH AFFIRMATIVE DEFENSE

(To the Second Cause of Action)

Upon information and belief, to the extent Plaintiff is deemed to have requested an accommodation to her alleged disability, Plaintiff's requested accommodation was unreasonable.

NINETEENTH AFFIRMATIVE DEFENSE

(To the Second Cause of Action)

Upon information and belief, to the extent Plaintiff is deemed to have requested an accommodation to her alleged disability, Defendant made a good faith effort to consult with Plaintiff and to identify and make a reasonable accommodation, preventing Plaintiff's recovery of compensatory damages under the ADA.

TWENTIETH AFFIRMATIVE DEFENSE

(To the Third Cause of Action)

Plaintiff's Third Cause of Action for intentional infliction of emotional distress fails as Plaintiff has failed to plead this cause of action with the required specificity. *Michaelian v. State Comp. Ins. Fund*, 50 Cal. App. 4th 1093, 1113-14 (1996).

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1 WHEREFORE, this answering Defendant prays that:

2 1. Plaintiff be denied relief by way of her Complaint;

3 2. Plaintiff's Complaint be dismissed with prejudice;

4 3. Defendant be dismissed with its costs of suit and attorneys' fees, pursuant to all
5 applicable statutes, including but not limited to California Government Code section 12965, 42
6 United States Code sections 12117(a), 12133, 2000e-5(k), and 29 United States Code section
7 794a(b); and

8 4. For such other and further relief as the Court deems proper.

9
10 Dated: August 28, 2008

11 DLA PIPER US LLP

12
13 By 

14 JOHN E. FITZSIMMONS

15 AMY E. BECKSTEAD

16 Attorneys for Defendant

17 UNITED AIR LINES, INC. (erroneously sued as
18 UNITED AIR LINES)

PROOF OF SERVICE

FILED
CIVIL BUSINESS OFFICE 17
CENTRAL DIVISION

I am a resident of the state of California, over the age of eighteen years, and not a party to the within action. My business address is DLA Piper US LLP, 401 B Street, Suite 1700, San Diego, California 92101-4297. On August 28, 2008, I served the within documents:

CLERK - SUPERIOR COURT
SAN DIEGO COUNTY, CA

ANSWER TO PLAINTIFF'S UNVERIFIED COMPLAINT

- ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Diego, California addressed as set forth below.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

Douglas E. Geyman, Esq.
Law Office of Douglas E. Geyman
750 B Street, Suite 2635
San Diego, CA 92101
Telephone: 619-232-3533
Facsimile: 619-232-3593

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the state of California that the above is true and correct.

Executed on August 28, 2008, at San Diego, California.

Donna C. Bennett

Donna C. Bennett

PROOF OF SERVICE

I am a resident of the state of California, over the age of eighteen years, and not a party to the within action. My business address is DLA Piper US LLP, 401 B Street, Suite 1700, San Diego, California 92101-4297. On August 29, 2008, I served the within documents:

NOTICE OF REMOVAL OF CIVIL ACTION TO UNITED STATES DISTRICT COURT BY DEFENDANT UNITED AIR LINES, INC.


- ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Diego, California addressed as set forth below.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

Douglas E. Geyman, Esq.
Law Office of Douglas E. Geyman
750 B Street, Suite 2635
San Diego, CA 92101
Telephone: 619-232-3533
Facsimile: 619-232-3593

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I declare under penalty of perjury under the laws of the state of California that the above is true and correct.

Executed on August 29, 2008, at San Diego, California.


Donna C. Bennett

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

WEIDA HAYNES

DEFENDANTS

UNITED AIR LINES, INC.

FILED

(b) County of Residence of First Listed Plaintiff San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant San Diego
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, IN THE LOCATION OF THE
LAND INVOLVED. SOUTHERN DISTRICT OF CALIFORNIA

(c) Attorney's (Firm Name, Address, and Telephone Number)

Douglas E. Geyman, Esq.
Law Office of Douglas E. Geyman
750 B Street, Suite 2635
San Diego, CA 92101
Phone: 619-232-3533; Fax: 619-232-3593

Attorneys (If Known)

John E. Fitzsimmons, Esq.; Amy E. Beckstead, Esq.
DLA Piper US LLP
401 B Street, Suite 1700
San Diego, CA 92101
Phone: 619-699-2700; Fax: 619-699-2701

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ 1 PTF ☐ 1 DEF
Citizen of Another State ☐ 2 ☐ 2 Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Incorporated and Principal Place of Business In Another State ☐ 5 ☒ 5
Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment and Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
☒ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C Sections 1332, 1441 & 1446 and 42 U.S.C Section 12101

Brief description of cause:

Disability discrimination under the ADA

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE August 29, 2008 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # 154543 AMOUNT \$350 APPLYING IFP

JUDGE

MAG. JUDGE

**UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION**

154543 - TC

**August 29, 2008
10:52:39**

Civ Fil Non-Pris

USAO #: 08CV1587

Judge...: JANIS L. SAMMARTINO

Amount.: \$350.00 CK

Check#: BC784592

Total-> \$350.00

**FROM: WEIDA HAYNES
VS
UNITED AIRLINES**